

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF VERMONT

THURMOND McMICHAEL,  
Plaintiff

v.

ANDREW PALLITO, ROBERT KUPEC,  
JAY SIMONS, PHIL FERNANDEZ,  
STAN MORSE, DAVID BULEY,  
STEPHEN McCARTHY and  
BARBARA LESTER,  
Defendants

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File No. 1:09-cv-130-jgm-jmc

**ORDER**

The Magistrate Judge's Report and Recommendation was filed October 24, 2011. (Doc. 93.) After de novo review and absent objection, the Report and Recommendation is AFFIRMED, APPROVED and ADOPTED. See 28 U.S.C. § 636(b)(1).

Defendants' Motion for Summary Judgment (Doc. 83) is GRANTED. To the extent Plaintiff's opposition memorandum (Doc. 87) is an opposing motion, it is DENIED, and this case is DISMISSED. Plaintiff's motion to compel (Doc. 84) is DENIED as moot.

It is further certified that any appeal taken in forma pauperis from this Order would not be taken in good faith because such an appeal would be frivolous. See 28 U.S.C. § 1915(a)(3).

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 1<sup>st</sup> day of December, 2011.

/s/ J. Garvan Murtha  
Honorable J. Garvan Murtha  
United States District Judge